

REMARKS

Applicant thanks the Examiner for the helpful interview on March 23, 2004. In the Interview, ways of overcoming the §112 rejection were discussed and amendments have been made herein to this end. Ways of overcoming the §103 rejection based primarily on Sullivan were discussed and amendments to this end have been incorporated into the present Amendment.

Claims 2-7, 10, 11, 13-17, 20-23, 25, 26, 29 and 30 of the above-referenced application are pending. These claims have been canceled in favor of new Claims 32-38. Generally speaking, the new claims require a combination of a base (packaging) member, a vehicle radiator positioned on the base member, a stand-off member positioned on the vehicle radiator, and a strap positioned around the base member and vehicle radiator. The combined vehicle radiator, base member, stand-off and strap are positioned in an assembled condition in a container and spaced from a first inside surface of the container by the stand-off member and spaced from a second inside surface of the container by legs of the base member. In this manner, the vehicle radiator is held centrally within the container with no portions of the vehicle radiator in contact with or directly adjacent the container walls. Accordingly, damage to the container itself will not result in damage to the vehicle radiator. This arrangement of elements and the resulting quality of protection to the packaged radiator are not taught or suggested by any combination of the cited prior art.

Claims 2-7, 10, were rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to point out and distinctly claim the subject matter which applicant regards as the invention. In response, Applicant submits herewith new claims. Applicant respectfully requests reconsideration of the rejection under 35 U.S.C. §112, second paragraph.

Claims 2-7, 10, 11, 13-17, 20-23, 25, 26, 29 and 30 were rejected under 35 U.S.C. §103(a) as being unpatentable over Sullivan, in view of Wood, U.S. Patent No. 3,221,872 ("Wood"), Cadillac et al., U.S. Patent No. 2,917,165 ("Cadillac") and Official Notice. Reconsideration of the rejections of the claims is requested.

As summarized above, new Claim 32 specifies a combination of a base (packaging) member, a vehicle radiator positioned on the base member, a stand-off member positioned on the vehicle radiator, and a strap positioned around the base member and vehicle radiator. None of

the cited references teach or suggest this combination of elements or the arrangement of parts of the present base member or the combination of a base member as presently recited with a stand-off element. Nor does any combination of the prior art recognize the unique packaging requirements of a vehicle radiator or the relatively minimal use of packaging materials needed in the presently claimed invention. As pointed out in previous Responses, a vehicle radiator is different than and benefits by a different packaging system. In particular, the radiator has fragile portions, which if impacted even gently with finger pressure are deformed. The inventor of the present invention has taken the inventive step of providing packaging elements to space the radiator from both inside container surfaces. Furthermore, radiators have a rigid portion (for example, the intake and outlet hose pipe connections) which can be used for mounting a spacer or stand-off element. This is not taught or suggested by the prior art. The newly added claims address this unique arrangement directly.

The standard of obviousness is to provide all of the elements by combining references, (*prima facie* obviousness) which is clearly *not* accomplished by the presently cited references or provide some teaching, suggestion or motivation to modify the reference to supply all of the claim limitations of the present claims. The motivation to modify Sullivan and combine a modified Sullivan with any of the prior art is lacking. The motivation is lacking because none of the prior art recognizes or addresses the unique packaging requirements (and opportunities) of a vehicle radiator.

The Examiner has previously suggested that the primary reference, Sullivan, would be suited to holding a vehicle radiator. In some respects this is true. It is also true that a simple box will hold a vehicle radiator. But, a simple box will not protect a radiator from damage through the container wall and neither will Sullivan, because Sullivan does not space the sides of the article from the adjacent inside wall. The etched glass, windows, storm doors (listed in Sullivan) will tolerate some impact compared to a radiator. Sullivan shows at least one side of the etched glass, etc. positioned adjacent an inside container surface. Because Sullivan does not recognize the need to space both sides of a radiator from the container and does not recognize the opportunity to provide a stand-off element to a non-fragile portion of a radiator the motivation to modify Sullivan and provide a stand-off element is lacking.

In contrast, the orientation of the arms and legs of the present base member provides a unique benefit not contemplated by the support member of Sullivan while using minimal material. The present invention spaces a radiator from both main inside walls of the container. In contrast, Sullivan requires two support members to accomplish the same thing as the single base member and single stand-off of the present invention.

There is no teaching or suggestion in any of the references to arrive at the present invention as set forth in the claims because none of the references contemplates the unique requirements and opportunities of a vehicle radiator. As such, motivation to modify the references is lacking.

Furthermore, there is no motivation to use any of the standoff elements shown by Wood, Cadillac or according to Official Notice with Sullivan modified or unmodified because none of the prior art contemplates the unique construction of a vehicle radiator which has some fragile parts (the radiator fins) and some non-fragile parts (the frame and hose connections). Indiscriminate use of the elements of Wood or Cadillac would not easily lend them to use with a vehicle radiator.

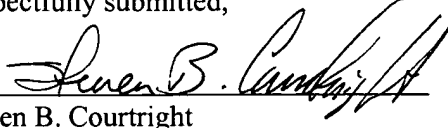
If an independent claim is nonobvious under 35 U.S.C. §103, then any claim depending therefrom is nonobvious. Accordingly, since Claim 32 has been distinguished from the above-identified combination of references, dependent Claims 33- 38 should be allowed.

For these reasons, we respectfully request reconsideration and allowance of Claims 32-38. If, for any reason, the Examiner is unable to allow all of the pending claims of the Application and feels that a telephone conference would be helpful to resolve any remaining issues, the Examiner is respectfully requested to contact the undersigned at (312) 673-0360.

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